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Chairman: Mr. Råsbrant (Vice-Chairman) ..... (Sweden)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Ms. McLurg

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In the absence of Mr. Bródi (Hungary), Mr. Råsbrant (Sweden), Vice-Chairman, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 123: Human resources management (*continued*)

Amendments to the Staff Regulations (A/63/694 and A/63/754)

1. **Ms. Pollard** (Assistant Secretary-General for Human Resources Management) introduced the report of the Secretary-General (A/63/694) containing the amendments to the Staff Regulations that would be required to implement the new contractual framework on 1 July 2009, as requested in section II, paragraph 12, of General Assembly resolution 63/250 on human resources management. The amendments had been the subject of a legal review conducted by the Office of Legal Affairs and had been prepared in consultation with the funds and programmes that were governed by the United Nations Staff Regulations and Rules, the departments and offices of the Secretariat and Staff Union representatives.

2. Annex I contained only those parts of the Staff Regulations that required modification, and showed deletions to the current text, the proposed new text, and the explanation for the proposed change. Annex II contained the full text of the amended Staff Regulations, which would enter into force on 1 July 2009, should the General Assembly approve the changes at the first part of the resumed sixty-third session.

3. The proposed amendments reflected the decisions of the General Assembly on the implementation of the three new types of appointments (temporary, fixed-term and continuing) under one new set of Staff Rules, as contained in its resolution 63/250, and on the discontinuation of the 100-, 200- and 300-series Staff Rules and the existing types of appointments; the decisions of the General Assembly on the implementation of the new internal system of justice, as contained in its resolution 63/253 on the administration of justice; and the proposed harmonization of the language of the Staff Regulations with the terminology currently in effect in the United Nations, to bring it into line with other official and internal documentation.

4. The proposed amendment to staff regulation 4.4 removed the reference to the current 100 series of the Staff Rules, which would be discontinued as of 1 July 2009, but did not change the purpose and content of the Regulation. The proposed amendment did not preclude Member States from later reviewing the content, which was in accordance with Article 101, paragraph 3, of the Charter.

5. The proposed amendments to staff regulation 4.5 addressed the specific request of the General Assembly contained in section II, paragraph 21, of its resolution 63/250 to reflect in the Rules and Regulations that there would be no expectations, legal or otherwise, of renewal or conversion of a fixed-term contract, irrespective of the length of service. In the interest of clarity, a similar provision had been included for temporary appointments.

6. A new paragraph had been added to staff regulation 9.3 to include termination, in the interest of the good administration of the Organization, of the continuing appointment of a staff member, without his or her consent. The introduction of the additional ground for termination was in line with the Secretary-General's proposal on continuing appointments contained in his report on the streamlining of contractual arrangements (A/63/298) as well as previous reports on contractual reform (A/62/274, A/61/857 and A/59/263/Add.1). The issue had been discussed at length at the fifty-ninth, sixty-first and sixty-second sessions, as well as at the current session, of the General Assembly. In section II, paragraph 22, of its resolution 63/250, the General Assembly had decided that, in the context of the Secretary-General's proposal, "in the interest of the good administration of the Organization" was to be interpreted principally as a change or termination of a mandate. That interpretation would be reflected in the relevant administrative issuances on the implementation of the amended Staff Regulations and new Staff Rules. The conditions under which continuing appointments might be implemented would, however, be subject to further consideration by the Assembly at its sixty-fourth session, pursuant to section II, paragraphs 3 and 4, of its resolution 63/250. Further amendments to staff regulation 9.3 might prove necessary, pursuant to subsequent General Assembly decisions.

7. The proposed amendment to staff regulation 11.1 aligned the language of the regulation with the statute of the United Nations Dispute Tribunal, as approved by

the General Assembly in its resolution 63/253, on the administration of justice.

8. No amendments had been proposed to article XII. The acquired rights of staff members holding probationary, permanent and indefinite appointments as at 30 June 2009 would be covered by staff regulation 12.1, which stated that the Staff Regulations might be supplemented or amended by the General Assembly, without prejudice to the acquired rights of staff members. Since probationary, permanent and indefinite appointments would no longer be granted to staff members joining the Organization on or after 1 July 2009, reference to those types of appointment had been removed from the text of the proposed amended Staff Regulations.

9. With respect to letters of appointment, the proposed amendments responded to the General Assembly's request, in section II, paragraph 21, of its resolution 63/250, that letters of appointment should reflect that there would be no expectations, legal or otherwise, of renewal or conversion of a fixed-term contract, irrespective of the length of service. In the interest of clarity, a similar provision had been included for temporary appointments.

10. The Secretary-General would not grant any staff a continuing appointment until the General Assembly had approved the implementation of continuing appointments, in accordance with section II, paragraph 3, of its resolution 63/250. Accordingly, effective 1 July 2009, staff members whose fixed-term appointments expired would be granted a new fixed-term appointment under the new Staff Rules.

11. The Secretary-General would present additional information concerning the implementation of continuing contracts to the General Assembly at its sixty-fourth session, in accordance with section II, paragraph 4, of resolution 63/250. After the General Assembly had approved the implementation of continuing appointments, eligible staff members might be considered for conversion to a continuing appointment.

12. Pursuant to section II, paragraph 23, of resolution 63/250, pending implementation of the continuing contract regime, successful candidates from national competitive recruitment examinations and staff from language services recruited on or after 1 July 2009 would continue to be granted open-ended appointments according to the current practice. Those individuals would be awarded two-year fixed-term appointments to cover their two-year probationary service.

13. Should the General Assembly approve the amended Staff Regulations at the first part of its resumed sixty-third session, the Secretary-General would then prepare the new Staff Rules to implement the new contractual arrangements. Those rules would be promulgated provisionally on 1 July 2009, until the full text of the provisional Staff Rules had been submitted to the General Assembly for its review and approval, in accordance with staff regulations 12.2, 12.3 and 12.4.

14. The text of the provisional new Staff Rules would be submitted to the General Assembly for consideration at its sixty-fourth session. The General Assembly should take note of the provisional Staff Rules or, in accordance with staff regulation 12.3, request the Secretary-General to withdraw or modify a provisional rule and/or amendment if it found the text inconsistent with the intent and purpose of the Staff Regulations.

15. The provisional new Staff Rules would be revised to take into account any modifications or deletions adopted by the General Assembly at its sixty-fourth session and would enter into force effective 1 January 2010, pursuant to staff regulation 12.4.

16. The General Assembly was urged to take a decision regarding continuing appointments at its sixty-fourth session so that the continuing appointment regime could be implemented by 1 January 2010. It was also critical that the General Assembly should approve the amendments to the Staff Regulations at the first part of its resumed sixty-third session so that the new contractual framework could be implemented effective 1 July 2009.

17. **Ms. McLurg** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the Advisory Committee's related report (A/63/754), recalled that the proposed amendments to the Staff Regulations responded, in particular, to section II, paragraph 12, of General Assembly resolution 63/250, pursuant to which the Secretary-General was requested to submit to the Assembly for consideration at the first part of its resumed sixty-third session draft regulations by which the streamlined system of contracts could be implemented. The proposed amendments also reflected the decisions of the General Assembly on the

implementation of the new internal system of justice, as well as previous decisions of the Assembly on conditions of service that had already been implemented by means of the Staff Rules and relevant internal administrative issuances. Some amendments were designed simply to harmonize the terminology employed in the Staff Regulations with that currently in use at the United Nations.

18. The Advisory Committee understood that, in order to reflect the request contained in section II, paragraph 12, of General Assembly resolution 63/250, the amended regulations focused primarily on the new contractual arrangements. However, the Secretary-General might take advantage of the opportunity to clarify the other instruments that would be used to address the issues covered by resolution 63/250, such as accountability and the performance appraisal system, that had not been addressed in the proposed amendments to the Staff Regulations.

19. The Advisory Committee's observations on specific amendments were set out in paragraphs 8 to 16 of its report. Concerning regulation 4.4, the General Assembly might wish to consider whether the proposed amendment would have an impact on the influx of new talent to the Organization, efforts to rejuvenate the Secretariat and the number of posts currently subject to the system of desirable geographical ranges.

20. With regard to the proposed amendments to regulation 4.5, the Advisory Committee had been informed that the acquired rights of current staff members holding probationary, permanent and indefinite appointments were covered by existing regulation 12.1. It had also been informed that the Secretary-General would include in the Staff Rules a new chapter XIII, entitled "Transitional measures", to address, inter alia, the situation of those staff. In that connection, and bearing in mind the provisions of section II, paragraph 23, of General Assembly resolution 63/250, the Advisory Committee believed that the transitional arrangements should clarify, in particular, how the new contractual regime would apply to successful candidates from national competitive recruitment examinations and staff in language services.

21. As for the proposed amendments to article IX, which dealt with separation from service, the General Assembly's decision that the phrase "in the interest of the good administration of the Organization" was to be interpreted principally as a change or termination of a mandate should be reflected in amended regulation 9.3. Clarification of the basis for the proposed change to regulation 9.3, namely that continuing appointments could be terminated in the interest of the good administration of the Organization without the consent of the staff member concerned, should be provided to the General Assembly, given the change that that amendment made to existing practice.

22. Bearing in mind the observations set out in its report and in view of the protracted negotiations in the General Assembly that had preceded the adoption of resolution 63/250, the Advisory Committee considered that the Assembly was best equipped to determine whether the amendments to the Staff Regulations proposed by the Secretary-General accurately reflected the provisions of General Assembly 63/250 and other relevant resolutions.

23. **Mr. Abdelmannan** (Sudan), speaking on behalf of the Group of 77 and China, said that the Group attached great importance to the well-being of all international civil servants and supported all reform measures aimed at establishing a satisfied and dynamic workforce. In that context, the adoption of General Assembly resolutions 63/250 on human resources management and 63/253 on the administration of justice was one of the most important achievements of the building block approach to human resources management reform. It would be useful to consider the impact of the reform on the various categories of staff and on the consultative process by which management would explain the objectives and expected achievements.

24. While the Secretary-General's report responded to the General Assembly's request for draft regulations by which the streamlined system of contracts could be implemented, it lacked information on many issues. The Group agreed with the Advisory Committee that the report would have benefited from the inclusion of a more detailed introduction to the context of the proposed amendments and to the drafting and approval process and from a more detailed commentary on the legislative basis for the existing wording and/or the justification for the proposed changes, in particular those not related to resolution 63/250.

25. It fully understood that temporary appointments were by nature limited in duration and that, pursuant to resolution 63/250, holders of fixed-term appointments

would have no expectations of renewal or conversion of their contracts. The regulations must reflect, however, the fact that there was nothing to prevent holders of temporary and fixed-term appointments from applying for other positions within the Organization and participating in a competitive selection process and that there would be no limitations on the number of future appointments.

26. The Group trusted that the new Staff Rules, which would be presented to Member States at the main part of the sixty-fourth session of the General Assembly, would include the Assembly's decisions regarding measures to improve the inequitable geographical distribution of Secretariat personnel, in particular, in the Office of the High Commissioner of Human Rights, in accordance with General Assembly resolution 63/250.

27. It agreed with the Advisory Committee that new regulation 9.3 should reflect the General Assembly's interpretation of the phrase "in the good administration of the Organization", as contained in section II, paragraph 22, of its resolution 63/250. The interpretation of that phrase was a key point in the Staff Regulations as well as the work of the new system of administration of justice.

28. While it was advisable for staff mobility to remain voluntary, it should be encouraged through financial incentives, opportunities for promotion and payment of hardship allowances. The Group would seek further information on the impact of resolution 63/250 on staff mobility, which was currently under review by the Secretary-General.

29. In the light of the increasingly high vacancy rates at the D-2 level for long periods of time, the Group would initiate a discussion in informal consultations on criteria and parameters governing the selection process for D-2 posts, which entailed senior managerial responsibilities and should not be left vacant.

30. A proper framework for consultations with staff representatives on all human resources reforms was imperative. The perception of mistrust between management and staff was regrettable and harmful to the Organization's image. The Group trusted that every effort would be made to improve staff-management relations and that, out of respect for the memory of those who had given their lives to the Organization, the Administration would conduct comprehensive consultations on the needs and concerns of the rest of the United Nations staff.

31. **Ms. Krahulcová** (Czech Republic), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania and Montenegro; and, in addition, the Republic of Moldova and Ukraine, said that after years of lengthy negotiations, the General Assembly had adopted resolution 63/250 approving crucial human resources management reforms and new contractual arrangements under one set of Staff Rules. By its resolution 63/253, the General Assembly had also decided to implement a new system of administration of justice. Pursuant to resolution 63/250, the Secretary-General had prepared amendments to the Staff Regulations by which a streamlined system of contracts could be promulgated. The European Union looked forward to discussing the technical changes to the regulations, which gave effect to the provisions of resolution 63/250 and would enable the Organization to achieve the 1 July 2009 deadline for the implementation of the new contractual arrangements for temporary and fixed-term contracts. It also looked forward to a more detailed discussion at the sixty-fourth session of the General Assembly on the issues outlined in resolution 63/250 concerning the implementation of continuing contracts.

32. **Ms. Helu** (Namibia), speaking on behalf of the African Group, said that the African Group had always attached great importance to human resources management reform. It noted with satisfaction that General Assembly resolution 63/250 had created the opportunity for a comprehensive review of the Staff Regulations but agreed with the Advisory Committee that the Secretary-General should have provided a more detailed commentary on the proposed amendments, including the legislative basis and implications.

33. While noting that the proposed amendments had been subject to a legal review by the Office of Legal Affairs and that all stakeholders had been duly consulted, the Group was concerned that the Secretary-General had not included an account of the staff-management consultative process in his report. It would seek further information on the level of involvement of staff representatives in the consultative process in informal consultations.

34. In its report, the Advisory Committee noted that some significant issues covered by resolution 63/250, such as accountability and the performance appraisal system, had not been reflected in the proposed amendments. The Group would like to know why that had not been done and would appreciate further clarification regarding the other instruments that would be used to address the outstanding issues.

35. The Group would seek information regarding the Secretary-General's decision to include in the Staff Regulations a new chapter XIII, entitled "Transitional measures", to address, inter alia, issues relating to staff holding permanent, probationary and indefinite appointments. It would also seek information regarding arrangements for current staff members who, once the streamline system of contracts entered into force on 1 July 2009, met the requirements for conversion to continuing appointments, particularly those whose existing contracts expired before 1 January 2010.

36. Concerning staff-management relations, the Secretariat and staff should use section I, paragraphs 1 to 5, of resolution 63/250 as a basis for considering ways to resolve any misunderstandings regarding human resources reform.

37. Lastly, the Group would like to receive the opinion of the Office of Legal Affairs on the legal aspects of the concerns raised by the Staff Union in its letter of 26 January 2009 to the President of the General Assembly. It would also be useful if the International Civil Service Commission could provide information to clarify the implications of resolutions 63/250 and 63/253 on conditions of service.

38. **Mr. Taula** (New Zealand), speaking also on behalf of Australia and Canada, said that the three delegations had long supported human resources management reform at the United Nations. They were pleased that the General Assembly had been able to reach consensus and adopt resolution 63/250, which included an agreement to streamline contracts and a new approach to conditions of service. One of the primary aims had been to improve the Organization's effectiveness in field missions, where vacancy and turnover rates had been consistently high. While the three delegations would have liked to have seen even greater progress, they considered that the resolution was an important step forward and that the proposed amendments did, in fact, reflect the agreed outcomes.

39. The main task now was to ensure that the proposed technical amendments to the Staff Regulations were consistent with the text and intent of the resolution. For its part, the Secretariat must continue its preparations to enable the implementation of the new contractual regime by 1 July 2009, as requested by Member States. One important outstanding human resources management reform issue related to the modalities for implementing continuing contracts. The three delegations looked forward to resolving that critical element of the new system at the sixty-fourth session of the General Assembly.

40. It was essential for management and staff to engage in constructive dialogue. Effective outreach and communication would ensure that all staff fully understood the implications of the proposed changes and enable them to express their views. In that regard, the Secretariat must make a greater effort to address misunderstandings among certain staff about the latest reforms. The Office of Human Resources Management, the Department of Field Support and other relevant bodies must closely monitor implementation of the reforms, in order to promptly identify and address any unexpected consequences.

41. **Mr. Scanlon** (United States of America) said that his delegation welcomed the approval of meaningful reform of human resources management. General Assembly resolution 63/250 addressed many of the issues raised in the reports of the Secretary-General on human resources management, in particular in the area of contractual arrangements and harmonization of conditions of service. The streamlining of contracts was aimed at simplifying an overly complex array of hiring mechanisms. Clearer distinctions would now be made between the different types of contract, based on the nature of the appointment.

42. The Committee must now consider the proposed amendments to the Staff Regulations, which followed from those changes to contractual arrangements and conditions of service. The proposed amendments listed in the Secretary-General's report (A/63/694) would affect many staff members, and in particular those at field duty stations.

43. The report of the Advisory Committee had raised concerns with respect to the detail provided on the context of the proposed amendments, the drafting and approval process, transitional measures, and the

explanations and commentary accompanying the proposed text of the amended regulations.

44. The Advisory Committee had also expressed the view that the amendments to the regulations should include other issues addressed by General Assembly resolution 63/250, such as accountability and performance appraisal. Although that was desirable, in view of the limited time available the implementation of the new system of contracts and conditions should take priority. The proposed new staff regulations were clearly in need of some revision; delegations should ensure that the new regulations could come into effect on 1 July 2009.

45. Pursuant to resolution 63/250, the criteria and regulations concerning continuing contracts would be taken up at the main part of the sixty-fourth session, in view of which the Secretary-General should not appoint any staff members to continuing contracts before 1 January 2010. His delegation also hoped that, regarding section II, paragraph 23, of the resolution, concerning candidates from the national competitive examination and staff of the language services, the Secretary-General would not grant permanent contracts to newly engaged staff members or to staff members who did not have such a contract pending the entry into effect of the new system.

46. Lastly, his delegation trusted that the Secretary-General was now implementing the provisions of the resolution with regard to temporary appointments. Of particular importance were section II, paragraph 8, regarding benefits and allowances of staff on temporary contracts, and paragraph 14, on the practice of assigning staff members from Headquarters to missions on travel status basis for a period of more than three months.

47. **Mr. Kishimoto** (Japan) said that the Staff Regulations now needed to be revised to reflect the new contractual arrangements. It would not be appropriate to reopen the lengthy negotiations that had taken place. Nor should the current discussions prejudge those to be held at the sixty-fourth session, which would be based on the comprehensive report to be submitted by the Secretary-General at that session. At the current stage, four points needed to be made.

48. First, the General Assembly had requested the Secretary-General not to appoint any staff on continuing contracts pending its consideration of the matter at the main part of the sixty-fourth session, at which time the Secretary-General was to submit specific proposals. Accordingly, consideration of the proposed text of regulation 4.5 (d) on such appointments should be deferred to the main part of that session. Second, it was unclear how the revised regulations would apply to current permanent appointments, which he had understood, would be retained.

49. Third, resolution 63/250 provided that successful candidates from national competitive recruitment examinations and staff in language services would continue to be granted open-ended appointments. Until continuing appointments were established, permanent contracts should be retained for those staff members beyond 1 July 2009. Current regulation 4.5 (b) should therefore continue to apply for that purpose only.

50. Fourth, the restructuring of the staff selection system, as set out in administrative instruction ST/AI/2006/3, should ensure transparent, objective and geographically balanced recruitment, and must take place in compliance with the relevant General Assembly resolutions. In particular, regulation 4.4 in its current form stated that the Secretary-General might limit eligibility to apply for vacant posts to be filled by staff members appointed for one year or longer under the 100 series of the Staff Rules to internal candidates, as defined by the Secretary-General. His delegation wished to know how the new staff selection process would be regulated. In that regard, it was essential for the key criterion of geographical distribution to be preserved.

51. **Mr. Chumakov** (Russian Federation) said that the Organization should have a human resources policy which was effective, flexible and ensured maximum productivity. His delegation assessed the Secretary-General's proposals according to their ability to improve human resources management, to meet the Organization's need for qualified staff, to ensure that the Secretariat operated effectively and efficiently and to remain in step with the financial capacities of the Member States.

52. His delegation thought it inadvisable for the Organization to erode fixed-term appointments in favour of continuing appointments, which, in its view, amounted to semi-permanent contracts. Particular care should be taken not to give staff members holding fixed-term appointments any automatic expectation of receiving a conversion to a continuing appointment.

and the General Assembly should examine carefully the criteria to be applied to such conversion, on the basis of flexible and effective management of human resources.

53. Also important was the agreed framework for a new internal system of justice, which would play its part by removing the need to contemplate the inclusion in the staff regulations of additional and, in his delegation's view, potentially excessive, protection. It was important to encourage progress in indicators of performance and to encourage individuals to be personally accountable and to demonstrate permanently their professional suitability and usefulness to the Organization.

54. **Ms. Pollard** (Assistant Secretary-General for Human Resources Management) said that all staff representative bodies at United Nations duty stations and field offices, as well as at United Nations funds and programmes, had been consulted for views and feedback on the proposed amendments. Notwithstanding the time constraints and deadlines, their comments had been taken into account, except where they went against the terms of the resolution. All stakeholders, including the Office of Legal Affairs, had been fully involved in developing the amended regulations.

55. The consultative process would continue: an outreach campaign was being organized, and information would be posted on the staff Intranet system. Town hall meetings had been held in New York, Geneva and other duty stations, where appropriate by video link. Similar meetings would be held at field duty stations, in order to clarify the implications of resolution 63/250 and provide information on its implementation. A mailbox and web page had been set up to field queries and provide information.

56. Under the proposed regulations, temporary and fixed-term appointments did not carry any expectancy of renewal. However, holders of such appointments, while subject to limitations on extension and conversion, would not be prevented from competing for any vacancy as external candidates. In addition, none of the proposed changes would affect the principle of geographical distribution, which had been mandated by the General Assembly and was enshrined in the Staff Rules and in a number of administrative issuances. Regarding mobility and performance management, general conditions for the evaluation of staff performance were set forth in staff rule 101.3. However, the Staff Regulations and Rules contained only an overall policy framework. Details were to be found in the relevant administrative instructions and circulars, which had been drafted in consultation with staff representatives.

57. Staff who were currently serving on fixed-term appointments, had at least five years of continuing service and were under 53 years of age had an acquired right to consideration for a permanent appointment. In order to proceed to the new contractual framework from 1 July 2009, their cases would need to be reviewed and their contracts converted to permanent appointments. The Secretariat was actively examining the issue in order to determine how to proceed. Staff members who met the criteria as at 30 June 2009 were entitled to such a review, which would take place when the Secretary-General deemed it appropriate.

58. Resolution 63/250 requested the Secretary-General to discontinue the practice of assigning staff from Headquarters to missions on a travel status basis for a period of more than three months. That provision would be implemented from 1 July 2009. Until 30 June, in the interest of simplicity and clarity, the current contractual framework and modalities would apply.

59. The Secretariat would not be in a position to implement continuing appointments until January 2010, pending final decisions by the General Assembly on eligibility criteria and modalities of implementation. Continuing appointments had been included in the proposed new Staff Regulations as one of the three types of contractual mechanism. However, that did not mean that the Secretariat could award such contracts automatically. The process would be governed by the Staff Rules and administrative issuances, which could not be drafted without the requisite decisions of the General Assembly.

60. Staff currently holding permanent appointments would retain them for the period of their service in the Organization. The contracts of staff on probationary contracts awarded before 30 June 2009 would be converted to permanent ones even though their probationary appointments, would expire after 1 July 2009. Staff members recruited after 1 July would be given a two-year fixed-term contract, and would be considered for a continuing appointment once the

modalities had been determined by the General Assembly.

61. The Secretariat had never changed the manner in which staff regulation 4.4 was implemented. Internal candidates should be considered for any post for which they had applied. That did not exclude external candidates from applying for such vacancies; however, due consideration would be given to the interests of serving staff.

62. The Secretariat would re-examine the staff selection system with a view to implementing talent management, a process that would require revision of administrative instruction ST/AI/2006/3. Proposals were currently being formulated, and discussions with staff representatives would take place at the annual Staff Management Coordination Committee in June 2009. None of the changes would affect the requirements of geographical distribution and gender balance, as mandated by the General Assembly.

The meeting rose at 11.20 a.m.